

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT

for the
Middle District of Pennsylvania

____ Division

Roscoe Chambers

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Correctional officer B. Funk

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Case No. _____

(to be filled in by the Clerk's Office)

Demand for Speedy
Jury TrialFILED
SCRANTON

JUN 20 2019

PER _____

DEPUTY CLERK

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS
(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Roscoe Chambers

All other names by which
you have been known:

ID Number

13495-030

Current Institution

USP Lewisburg

Address

P.O. Box 1000

Lewisburg

PA

17837

City

State

Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

B. Funk

Job or Title (*if known*)

Correctional officer

Shield Number

N/A

Employer

F.B.O.P. / Warden David J. EBBert

Address

2400 Robert F. Miller Drive P.O. Box 1000

Lewisburg

PA

17837

City

State

Zip Code



Individual capacity



Official capacity

Defendant No. 2

Name

Job or Title (*if known*)

Shield Number

Employer

Address

City

State

Zip Code



Individual capacity



Official capacity

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

Defendant No. 3

Name _____

Job or Title (if known) _____

Shield Number _____

Employer _____

Address _____

City _____

State _____

Zip Code _____

☐

Individual capacity

☐

Official capacity

Defendant No. 4

Name _____

Job or Title (if known) _____

Shield Number _____

Employer _____

Address _____

City _____

State _____

Zip Code _____

☐

Individual capacity

☐

Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☒Federal officials (a *Bivens* claim)☐

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

8th Amendment

8th Amendment,

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

The Defendant Bfunk put poison in my food tray on May 9, 2019

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☐ Convicted and sentenced state prisoner
- ☒ Convicted and sentenced federal prisoner
- ☐ Other (explain) and at the Special Management Program for B.O.P

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

Inside on XBlock first floor

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

XBlock first floor

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

C. What date and approximate time did the events giving rise to your claim(s) occur?

May 9, 2019 Dinner time

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

I was throwing up I have severe stomach pain
It was hard to breathe it felt like I was having
a heart attack and I had diarrhea bad

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Medical refuse to see me the warden and assistant
warden refuse to do any thing but they refuse to allow
me to exhaust my administrative remedies saying I was
untimely.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I want Yo B. Funk fired I want to be compensated
\$250,000.00 and to be moved to a low security facility
and for Yo B. Funk to be charge criminally

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

United States Penitentiary Lewisburg

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes

☐ No

☐ Do not know

If yes, which claim(s)?

*request to be interviewed by Investigation office
to preserve camera footage
all and to investigate staff misconduct*

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance? *at WSP Lewisburg on May 22, 2019*

2. What did you claim in your grievance? *That Yo B. Funk put some kind of poison in my food, I wanted the staff to investigate it, program statement 3420.09*

3. What was the result, if any? *they did not investigate it. I filed the Bp 8 on May 22, it was returned to me on June 3, I filed the Bp 9 of June 3rd required by BOP's Administration process.*

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

*I filed a Bp-9 Remedy # 979758-F1 and they Rejected it saying it was untimely & attached to civil complaint
Bp 8 # 19-069*

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies. *The PLRA states a Inmate must exhaust all Administrative Remedy before filing a civil suit 42 USC 1997(e) the Remedy became unavailable to me when prison official refuse to process my Administrative Remedy pursuant to 28 C.F.R. § 542.10.*
 (Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☒ Yes☐ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

Chambers V. Conrad NO. 4:13-cv-06186-JAJ (S.D. Iowa)
Chambers V. Fehrman NO. 4:15-cv-04652-SLD-JEH (C.D. Ill)

Page 8 (A)

Some of these cases don't constitute a strike

Chambers v. Santos 3:18-cv-00820-D-BT (N.D. Tex.)

Chambers v. Allen Appeal No. 5:17-cv-01353

Chambers v. Scurone No. 4:17-cv-00432-SMR-SBT (S.D. Tex.)

Chambers v. Long No. 5:16-cv-00142-GNS (W.D. Ky.)

Chambers v. Cockrell No. 3:16-cv-00569-CRS (W.D. Ky.)

Cases Dismissed

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☒ Yes

☐ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) ~~Yo J. Querrisky~~ Roscoe Chambers

Defendant(s) ~~Yo J. Querrisky~~

2. Court (if federal court, name the district; if state court, name the county and State)

Middle District of Pennsylvania

3. Docket or index number

3:18-cv-2300

4. Name of Judge assigned to your case

Judge Mariani and Magistrate Judge Saporita

5. Approximate date of filing lawsuit

actual my sentence Court Judge interpreted it as a civil suit

6. Is the case still pending?

☐ Yes

☒ No

If no, give the approximate date of disposition.

I filed a motion to dismiss on 3

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

I filed a motion in June to dismiss pursuant to Fed. r. of civil P. 41 because I technically did not filed the civil complaint because I was not thru exhausting my administrative Remedy

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

Yes

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

- ☒ Yes
☐ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s)

Roscoe Chambers

Defendant(s)

Warden David J. EBBert et al

2. Court (if federal court, name the district; if state court, name the county and State)

Middle District of Pennsylvania

3. Docket or index number

3118-CV-1009

4. Name of Judge assigned to your case

Mariani, Saporita now Alan N. Bloch

5. Approximate date of filing lawsuit

~~June 13, 2018~~ May 11, 2018

6. Is the case still pending?

- ☒ Yes
☐ No

If no, give the approximate date of disposition

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

1) Roscoe Chambers
 Lt C Herrera et al
 2) Central District of California
 3) 5:17-CV-0256 -
 4) Michael W Fitzgerald + Magistrate Judge Karen E Scott
 5) Dec 2017
 6) Yes

1) Roscoe Chambers
 Warden David Jr EBBert et al
 2) Middle District of Pennsylvania
 3) 3:18-CV-1207
 4) Mariani + Saporito now Alan N Bloch
 5) June 13, 2018
 6) Yes

1) Roscoe Chambers
 Dr Andrew EDinger et al
 2) Middle District of Pennsylvania
 3) 3:18-CV-2251
 4) Mariani + Saporito now Judge Alan N Bloch
 5) N/A
 6) Yes I don't know they have not address of yet,

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: June 12, 2019

Signature of Plaintiff

Printed Name of Plaintiff

Prison Identification #

Prison Address

Roscoe Chambers

Roscoe Chambers

13495-030

USP Lewisburg Pro Box 1000

Lewisburg
City

PA
State

17837
Zip Code

B. For Attorneys

Date of signing: NONE Pro, SC Litigant

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address

LEW 1330.13D
ADMINISTRATIVE REMEDY PROGRAM
ATTACHMENT A

INFORMAL RESOLUTION ATTEMPT # 19-069

In accordance with Program Statement 1330.13, Administrative Remedy Program, this form will serve as documentation by the respective staff member and the unit manager to indicate an informal attempt to resolve the complaint of the following inmate:

NAME: Pascoe Chambers REG NO: 13495-030
FORM TO INMATE: May 22, 2019 (date) STAFF: K. Gemberling X-BLOCK (name) (unit)

A BP-299 (13) WILL NOT ORDINARILY BE ACCEPTED WITHOUT THIS COMPLETED FORM ATTACHED

1. NATURE OF COMPLAINT (to be completed by inmate):

On May 9, 2019, Yo Bunk put some kind of poison in my dinner tray. I was throwing up and had severe stomach ache. I am requesting the camera footage for XBlock first floor and were every this Correctional officer took my food tray, he did something to my food or he knows who did.

I request program statement 3420.09, 1211.22, 1380.05. I want to be interviewed by S.I.A. office and I want Internal Affairs to review this Correctional officer's file and see if Warden David Jr. Ebbert gave him any promotion or recommendation to show the Warden is aware.

I request the nearest FBI office and a US Attorney's office be contacted. I want to file charges. I don't believe this Correctional officer knows the severity of what he is doing. I demand to speak to S.I.A. office and Internal Affairs.

And the Unit team is aware of this situation and has done nothing. Counsel K. Gemberling has refused to give me a bp until now.

LEW 1330.13D
ADMINISTRATIVE REMEDY PROGRAM
ATTACHMENT A CONTINUED

FOR STAFF USE ONLY: (to be completed within 5 working days)

1. Date Received from inmate: 05-23-2019

2. Staff Member Assigned to Respond to U/M: D. Knapp

3. Efforts Made to Resolve the Problem:

4. Applicable Program Statement Used in this Informal Resolution Attempt:

5. Inmate's Response to Informal Remedy Attempt:

Prepared by: K. Gemberling/ Correctional Counselor 

Received by (U/M): C. Berkoski/ Unit Manager 

Original Returned to Inmate (Date): 6/3/19

cc: Central File

Inmate Name: Chambers, Roscoe
Inmate Reg. No. 13495-030
Quarters: X-Block

In your Informal Resolution Attempt, received May 29, 2019, wherein you claim staff contaminated your food tray on May 9, 2019. You are requesting an investigation be conducted.

Staff misconduct is viewed very seriously. Staff conduct is governed by Program Statement 3420.11, Standards of Employee Conduct, dated December 6, 2013. An examination has been conducted regarding your claims, to include interviews with applicable staff and a review of documentation. No significant information was discovered to support your claims or show staff was negligent in their duties. Furthermore, staff identified in your complaint denied contaminating your food tray in any way.

Based on this evidence, your request for Informal Resolution is denied.




J. Konkler, Captain

5-29-19
Date

REJECTION NOTICE - ADMINISTRATIVE REMEDY

DATE: JUNE 5, 2019


FROM: ADMINISTRATIVE REMEDY COORDINATOR
LEWISBURG USP

TO : ROSCOE CHAMBERS, 13495-030
LEWISBURG-USB---UNT: X-BLOCK QTR: X02-117U
2400 ROBERT F. MILLER DRIVE
LEWISBURG, PA 17837

FOR THE REASONS LISTED BELOW, THIS ADMINISTRATIVE REMEDY REQUEST
IS BEING REJECTED AND RETURNED TO YOU. YOU SHOULD INCLUDE A COPY
OF THIS NOTICE WITH ANY FUTURE CORRESPONDENCE REGARDING THE REJECTION.

REMEDY ID : 979758-F1 ADMINISTRATIVE REMEDY REQUEST
DATE RECEIVED : JUNE 5, 2019
SUBJECT 1 : UNPROFESSIONAL, INAPPROPRIATE CONDUCT OR MISCONDUCT BY STAFF
SUBJECT 2 :
INCIDENT RPT NO:

REJECT REASON 1: YOUR REQUEST IS UNTIMELY. INSTITUTION AND CCC REQUESTS
(BP-09) MUST BE RECEIVED W/20 DAYS OF THE EVENT COMPLAINED
ABOUT.

U.S. DEPARTMENT OF JUSTICE
Federal Bureau of Prisons

REQUEST FOR ADMINISTRATIVE REMEDY

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From: Chambers Roscoe 13495-030 XBlock USP Lewisburg
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A- INMATE REQUEST

I request the camera footage preserve for XBlock 1 first floor on May 9, 2019 % B. Funk put some poison in my food tray at dinner time, I was sick and throwing up, I want the camera footage preserve every where he took my food tray, He claims he just open the food lid and look in it, I request to be interviewed by S.I.S and S.I.A Internal Affairs, I want the F.B.I. Contacted, and not to have % B Funk around my food tray

June 3, 2019
DATE

Roscoe Chambers
SIGNATURE OF REQUESTER

Part B- RESPONSE

RECEIVED

JUN 05 2019

ADMIN REMEDY CLERK
USP LEWISBURG

DATE

WARDEN OR REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: 979758-F

CASE NUMBER: _____

Part C- RECEIPT

Return to: _____
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: _____

DATE

DECIDENT'S SIGNATURE (STAFF MEMBER)

Inmate Name: Roscoe Chambers
Register Number: 13495-030
United States Penitentiary Lewisburg
P.O. Box 1000
Lewisburg, PA 17837

CV
12 JUN 19

17 JUN 2019

Legal Mail



RECEIVED
SCRANTON

JUN 20 2019

PER

[Signature]
DEPUTY CLERK

Office of the Clerk
United States District Court
for the Middle District of Pennsylvania
William J NEALon Federal Bldg & US Courthouse
235 North Washington Avenue
P.O. Box 1148
SCRANTON, PA 18501-1148